

National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL
Advice Memorandum

DATE: February 25, 1997

TO: William C. Schaub, Regional Director, Region 7

FROM: Barry J. Kearney, Associate General Counsel, Division of Advice

SUBJECT: Metropolitan Council of Newspapers Unions, et al. (Detroit Newspaper Agency), Case 7-CC-1676

560-5067-2000, 560-5067-2050, 560-5067-4000

This case was submitted for advice as to whether the Union's handbilling and the placement of a billboard at entrances to neutral employers' premises in conjunction with the Union's handbilling constitute unlawful secondary picketing.

FACTS

In support of its strike against two Detroit newspapers, the Union stationed a large sign, approximately seven to eight feet high and three feet wide, on public space near the driveway entrances to three neutral Employers that advertise in the struck newspapers. The signs read, "Boycott [name of neutral employer] for supporting anti-union Detroit News & Free Press. This is not a picket. This billboard is addressed exclusively to the public and is not intended to cause any employee to refuse to perform services or deliver goods." In each instance, Union handbillers clustered around the sign. The handbillers wore bright orange coveralls with "Detroit Newspapers Boycott Team" printed on the back. A videotape does not show any evidence that the sign or the handbillers interfered with access to the Employers' premises. Instead, the videotape shows the handbillers standing near the sign and offering handbills to passing cars.

ACTION

We agree with the Region that the charge should be dismissed, absent withdrawal, because the Union's activity was peaceful handbilling protected under *DeBartolo Corp. v. Florida Gulf Coast Building & Construction Trades Council*.⁽¹⁾

We agree that the Union's activity lacked the coercive confrontational element characteristic of picketing.⁽²⁾ The size of the Union's sign and the slogans on the backs of the coveralls worn by the handbillers did not convert those items into picket signs in the absence of evidence that the sign or the individuals wearing the coveralls were part of activity intended to confront potential shoppers, impede access⁽³⁾ or otherwise disrupt the operations of the neutral Employers.⁽⁴⁾ Finally, the signs clearly stated that the Union's dispute was with the Detroit newspapers and that the Employers were neutrals in that dispute.⁽⁵⁾ In these circumstances, the Union was engaged in lawful handbilling and the charge should be dismissed, absent withdrawal.

B.J.K.

¹ 458 U.S. 568, 128 LRRM 2001 (1988).

² Compare *Chicago Typographical Local 16* (Alden Press), 151 NLRB 1666 (1965), with *Laborers Local 332* (C.D.G., Inc.), 305 NLRB 298 (1991).

³ See, e.g., *Service Employees Local 1877* (Service By Medallion), Case 32-CC-1367, Advice Memorandum dated August 24, 1993. Compare *Omaha Building Trades Council* (Crossroads Joint Venture), 284 NLRB 328 (1987).

⁴ Compare *Simmonds v. Teamsters Local 122*, 153 LRRM 2223 (D. Mass. 1996); *Pye v. Teamsters Local 122*, 875 F. Supp. 921 (D. Mass. 1995), affd. 61 F.3d 103 (1st Cir. 1995).

⁵ Compare *Crossroads Joint Venture*, supra; *Cedar Rapids Building Trades Council* (Siebke-Hoyt), 283 NLRB 1155 (1987).